

Conference Engrossed

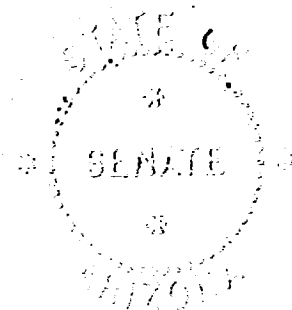
State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

SENATE BILL 1186

AN ACT

AMENDING SECTIONS 16-121.01, 16-168, 16-246 AND 16-584, ARIZONA REVISED STATUTES; REPEALING SECTION 16-579, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 260, SECTION 18; RELATING TO ELECTIONS AND ELECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)





STATE OF ARIZONA

OFFICE OF THE GOVERNOR

1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007

JANET NAPOLITANO
GOVERNOR

MAIN PHONE: 602-542-4331
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May 20, 2005

The Honorable Ken Bennett
Senate President
Arizona State Senate
1700 West Washington Street
Phoenix, Arizona 85007

Re: Senate Bill 1186: voter registration information; privacy; citizenship

Dear President Bennett:

Today I vetoed Senate Bill 1186, related to the confidentiality of voter registration information and provisional ballots.

I cannot sign legislation that interferes with a lawful citizen's right to vote. Senate Bill 1186 would do just that.

While I recognize and support the need to enact legislation to protect the confidentiality of documents and information submitted by Arizona voters as proof of United States citizenship for the purposes of voter registration, Senate Bill 1186 places undue restrictions on lawful voters obtaining provisional ballots. For the reasons set forth in my April 1, 2005 veto letter of Senate Bill 1118, denials of provisional ballots are unwise, serve no legitimate voter security function, and will inevitably lead to denials of the right to vote by lawful Arizonans. Such restrictions on provisional ballots should not become law.

Yours very truly,

A handwritten signature of Janet Napolitano in black ink.

Janet Napolitano
Governor

JN:TN/jm
cc: The Honorable Jim Weiers
The Honorable Dean Martin

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 16-121.01, Arizona Revised Statutes, is amended to read:

16-121.01. Requirements for proper registration

A. A person is presumed to be properly registered to vote on completion of a registration form as prescribed by section 16-152 that contains at least the name, the residence address or the location, the date of birth and the signature or other statement of the registrant as prescribed by section 16-152, subsection A, paragraph 20 and a checkmark or other appropriate indicator that the person answered "yes" to the question regarding citizenship AND THE REGISTRATION FORM OTHERWISE MEETS THE REQUIREMENTS OF SECTION 16-166, SUBSECTION F. The completed registration form must also contain the person's Arizona driver license number, the nonoperating identification license number issued pursuant to section 28-3165, the last four digits of the person's social security number or the person's affirmation that if an Arizona driver license number, A nonoperating identification license number or the last four digits of the person's social security number is not provided, the person does not possess a valid Arizona driver or nonoperating identification license or a social security number and the person is hereby requesting that a unique identifying number be assigned by the secretary of state pursuant to section 16-152, subsection A, paragraph 12, subdivision (c).

B. The presumption in subsection A of this section may be rebutted only by clear and convincing evidence of any of the following:

1. That the registrant is not the person whose name appears on the register.

2. That the registrant has not resided in this state for twenty-nine days next preceding the election or other event for which the registrant's status as properly registered is in question.

3. That the registrant is not properly registered at an address permitted by section 16-121.

4. That the registrant is not a qualified registrant under section 16-101.

Sec. 2. Section 16-168, Arizona Revised Statutes, is amended to read:

16-168. Precinct registers; date of preparation; contents; copies; reports; statewide database; violation; classification

A. By the tenth day preceding the primary and general elections the county recorder shall prepare from the original registration forms or from electronic media at least four lists that are printed or typed on paper of all qualified electors in each precinct in the county, and the lists shall be the official precinct registers.

B. The official precinct registers for use at the polling place shall contain at least the names in full, party preference, date of registration, and residence address AND MAILING ADDRESS FROM THE REGISTRATION FORMS AS

1 PRESCRIBED BY SECTION 16-152, SUBSECTION A of each qualified elector in the
2 respective precincts. The names shall be in alphabetical order and, in a
3 column to the left of the names, shall be numbered consecutively beginning
4 with number 1 in each precinct register.

5 C. For the purposes of transmitting voter registration information as
6 prescribed by this subsection, computer generated disks or computer software
7 with at least six hundred forty megabytes of storage in counties with a
8 population over five hundred thousand PERSONS in the last decennial census
9 shall be the principal media. A county or state chairman who is eligible to
10 receive copies of precinct lists as prescribed by this subsection may request
11 that the recorder provide a paper copy of the precinct lists. The county
12 recorder, in addition to preparing the official precinct lists, shall provide
13 a means for mechanically or electronically reproducing the precinct lists and
14 unless otherwise agreed shall deliver within eight days after the close of
15 registration for the primary and general elections, without charge, on the
16 same day one electronic media copy of each precinct list within the county to
17 the county chairman and one electronic media copy to the state chairman of
18 each party that has at least four candidates other than presidential electors
19 appearing upon the ballot in that county at the current election. The county
20 recorder shall also deliver, upon request and without charge, one electronic
21 media copy of the precinct list to the Arizona legislative council. The
22 county recorder of a county with a population of fewer than four hundred
23 thousand persons, on the same day precinct lists are delivered to county
24 chairmen, shall deliver one electronic media copy of each precinct list
25 within the county to the state chairman of each party that has at least four
26 candidates other than presidential electors appearing on the ballot in this
27 state at the current election. The copies of the precinct lists shall be on
28 magnetic computer disks or computer software with at least six hundred forty
29 megabytes of storage, which shall include for each elector the following
30 information:

- 31 1. Name in full and appropriate title.
- 32 2. Party preference.
- 33 3. Date of registration.
- 34 4. Residence address.
- 35 5. Mailing address, if different from residence address.
- 36 6. Zip code.
- 37 7. Telephone number if given.
- 38 8. Birth year.
- 39 9. Occupation if given.
- 40 10. Primary election and general election voting history for the prior
41 four years and any other information regarding registered voters which THAT
42 the county recorder or city or town clerk maintains on magnetic computer
43 disks or computer software and which THAT is public information.
- 44 D. The names on the precinct lists shall be in alphabetical order and
45 the precinct lists in their entirety, unless otherwise agreed, shall be

1 delivered to each county chairman and each state chairman at least quarterly
2 and within ten business days of the close of each quarter in the same format
3 and media as prescribed by subsection C of this section.

4 E. Precinct registers and other lists and information derived from
5 registration forms may be used only for purposes relating to a political or
6 political party activity, a political campaign or an election, for revising
7 election district boundaries or for any other purpose specifically authorized
8 by law and may not be used for a commercial purpose as defined in section
9 39-121.03. The sale of registers, lists and information derived from
10 registration forms to a candidate or a registered political committee for a
11 use specifically authorized by this subsection does not constitute use for a
12 commercial purpose. The county recorder, on a request for an authorized use
13 and within thirty days from receipt of the request, shall prepare additional
14 copies of an official precinct list and furnish them to any person requesting
15 them on payment of a fee equal to five cents for each name appearing on the
16 register for a printed list and ten cents for each name for an electronic
17 data medium, plus the cost of the blank computer disk or computer software if
18 furnished by the recorder, for each copy so furnished.

19 F. Any person in possession of a precinct register or list, in whole
20 or part, or any reproduction of a precinct register or list, shall not permit
21 the register or list to be used, bought, sold or otherwise transferred for
22 any purpose except for uses otherwise authorized by this section. A person
23 in possession of information derived from voter registration forms or
24 precinct registers shall not distribute, post or otherwise provide access to
25 any portion of that information through the internet except as authorized by
26 subsection J of this section. Nothing in this section shall preclude public
27 inspection of voter registration records at the office of the county recorder
28 for the purposes prescribed by this section, except that the month and day of
29 birth date, the social security number or any portion thereof, the driver
30 license number or nonoperating identification license number, the unique
31 identifying number prescribed by this section, the Indian census number, the
32 father's name or mother's maiden name, the state or country of birth and the
33 records containing a voter's signature shall not be accessible or reproduced
34 by any person other than the voter, by an authorized government official in
35 the scope of the official's duties, for signature verification on petitions
36 and candidate filings, for election purposes and for news gathering purposes
37 by a person engaged in newspaper, radio, television or reportorial work, or
38 connected with or employed by a newspaper, radio or television station or
39 pursuant to a court order. ANY DOCUMENTS OR INFORMATION SUBMITTED IN SUPPORT
40 OF A VOTER REGISTRATION APPLICATION PURSUANT TO SECTION 16-166, SUBSECTION F
41 SHALL NOT BE ACCESSIBLE OR REPRODUCED BY A PERSON OTHER THAN THE VOTER OR BY
42 AN AUTHORIZED GOVERNMENT OFFICIAL IN THE SCOPE OF THE OFFICIAL'S DUTIES. A
43 person who violates this subsection or subsection E of this section is guilty
44 of a class 6 felony.

1 G. The county recorder shall count the registered voters by political
2 party by precinct, legislative district and congressional district as
3 follows:

4 1. In even numbered years, the county recorder shall count all persons
5 who are registered to vote as of:

6 (a) January 1.

7 (b) March 1.

8 (c) The last day on which a person may register to be eligible to vote
9 in the next primary election.

10 (d) The last day on which a person may register to be eligible to vote
11 in the next general election.

12 (e) The last day on which a person may register to be eligible to vote
13 in the next presidential preference election.

14 2. In odd numbered years, the county recorder shall count all persons
15 who are registered to vote as of:

16 (a) January 1.

17 (b) April 1.

18 (c) July 1.

19 (d) October 1.

20 H. The county recorder shall report the totals to the secretary of
21 state as soon as is practicable following each of the dates prescribed in
22 subsection G of this section. The report shall include completed
23 registration forms returned in accordance with section 16-134, subsection B.
24 The county recorder shall also provide the report in a uniform electronic
25 computer media format that shall be agreed upon between the secretary of
26 state and all county recorders. The secretary of state shall then prepare a
27 summary report for the state and shall maintain that report as a permanent
28 record.

29 I. The county recorder and the secretary of state shall protect access
30 to voter registration information in an auditable format and method specified
31 in the secretary of state's electronic voting system instructions and
32 procedures manual that is adopted pursuant to section 16-452.

33 J. The secretary of state shall develop and administer a statewide
34 database of voter registration information that contains the name and
35 registration information of every registered voter in this state. The
36 database shall include an identifier that is unique for each individual
37 voter. The database shall provide for access by voter registration officials
38 and shall allow expedited entry of voter registration information after it is
39 received by county recorders. As a part of the statewide voter registration
40 database, county recorders shall provide for the electronic transmittal of
41 that information to the secretary of state on a daily basis. The secretary
42 of state shall provide for maintenance of the database, including provisions
43 regarding removal of ineligible voters that are consistent with the national
44 voter registration act of 1993 (42 United States Code section 394) and the
45 help America vote act of 2002 (P.L. 107-252), provisions regarding removal of

1 duplicate registrations and provisions to ensure that eligible voters are not
2 removed in error.

3 K. For requests for the use of registration forms and access to
4 information as provided in subsections E and F of this section, the county
5 recorder shall receive and respond to requests regarding federal, state and
6 county elections.

7 Sec. 3. Section 16-246, Arizona Revised Statutes, is amended to read:
8 16-246. Early balloting; satellite locations; additional
9 procedures

10 A. Within ninety days preceding the Saturday before the presidential
11 preference election and not later than 5:00 p.m. on the Friday preceding the
12 election, any elector who is eligible to vote in the presidential preference
13 election may make a verbal or signed, written request for an official early
14 ballot to the county recorder or other officer in charge of elections for the
15 county in which the elector is registered to vote. If the request is verbal,
16 the requesting elector shall provide the date of birth and birthplace or
17 other information that if compared to the voter registration records for that
18 elector would confirm the identity of the elector.

19 B. Absent uniformed services voters or overseas voters who are
20 otherwise eligible to vote in the election may vote as prescribed by sections
21 16-543, 16-543.01 and 16-543.02. The list of candidates that is sent as
22 prescribed by section 16-543.01 shall be a list of all candidates who have
23 qualified for the presidential preference ballot by the thirty-sixth day
24 before the presidential preference election.

25 C. The county recorder may establish on-site early voting locations at
26 the office of the county recorder or at other locations in the county deemed
27 necessary or appropriate by the recorder. Early voting shall begin fifteen
28 days before the presidential preference election and shall end on the Friday
29 before the presidential preference election.

30 D. The county recorder shall send by first class mail with the
31 endorsement "do not forward - address correction requested" any early ballots
32 that are requested pursuant to subsections A and B of this section and shall
33 include a preaddressed envelope for the elector to return the completed
34 ballot.

35 E. The county recorder shall provide to each election board an
36 appropriate alphabetized list of voters who have requested and have been sent
37 an early ballot. Any person who is on that list of voters and who was sent
38 an early ballot shall not vote at the polling place for that election
39 precinct except as prescribed by section 16-579, subsection E- B.

40 F. The county recorder may provide for any of the following in the
41 same manner prescribed by law for other elections:

- 42 1. Special election boards.
43 2. Emergency balloting for persons who experience an emergency after
44 5:00 p.m. on the Friday preceding the presidential preference election and

1 before 5:00 p.m. on the Monday immediately preceding the presidential
2 preference election.

3 G. Sections 16-550, 16-551 and 16-552 govern the use of early
4 balloting for the presidential preference election.

5 Sec. 4. Repeal

6 Section 16-579, Arizona Revised Statutes, as amended by Laws 2003,
7 chapter 260, section 18, is repealed.

8 Sec. 5. Section 16-584, Arizona Revised Statutes, is amended to read:

9 16-584. Qualified elector not on precinct register; recorder's
10 certificate; provisional ballot; procedure

11 A. A qualified elector whose name is not on the precinct register and
12 who presents a certificate from the county recorder showing that the elector
13 is entitled by law to vote in the precinct shall be entered on the signature
14 roster on the blank following the last printed name and shall be given the
15 next consecutive register number, and the qualified elector shall sign in the
16 space provided.

17 B. A qualified elector whose name is not on the precinct register,
18 upon presentation of identification verifying the identity of the elector
19 that includes the voter's given name and surname and the complete residence
20 address that is verified by the election board to be in the precinct or on
21 signing an affirmation that states that the elector is a registered voter in
22 that jurisdiction and is eligible to vote in that jurisdiction, shall be
23 allowed to vote a provisional ballot.

24 C. A QUALIFIED ELECTOR WHOSE NAME IS ON THE PRECINCT REGISTER BUT WHO
25 DOES NOT PRESENT THE FORM OF IDENTIFICATION REQUIRED BY SECTION 16-579,
26 SUBSECTION A SHALL SIGN THE SIGNATURE ROSTER NEXT TO THE VOTER'S NAME AND
27 SHALL BE ALLOWED TO VOTE A PROVISIONAL BALLOT IF THE VOTER PRESENTS ONE OF
28 THE FOLLOWING FORMS OF IDENTIFICATION:

29 1. A VALID ARIZONA DRIVER LICENSE OR NONOPERATING IDENTIFICATION CARD.
30 2. A LEGIBLE PHOTOCOPY OF THE VOTER'S BIRTH CERTIFICATE.
31 3. A LEGIBLE PHOTOCOPY OF PERTINENT PAGES OF THE VOTER'S UNITED STATES
32 PASSPORT.

33 4. A CURRENT AND VALID ARIZONA VEHICLE REGISTRATION.
34 5. A CURRENT AND VALID CERTIFICATE OF ARIZONA AUTOMOBILE INSURANCE.
35 6. A CERTIFICATE OF UNITED STATES NATURALIZATION.
36 7. A UTILITY BILL, BANK STATEMENT, GOVERNMENT CHECK OR PAYCHECK THAT
37 SHOWS THE NAME AND ADDRESS OF THE VOTER IN THIS STATE AND THAT IS DATED
38 WITHIN NINETY DAYS OF THE DATE OF THE ELECTION OR ANOTHER GOVERNMENT DOCUMENT
39 THAT SHOWS THE NAME AND ADDRESS OF THE VOTER IN THIS STATE.

40 8. AN INDIAN CENSUS CARD, TRIBAL ENROLLMENT CARD OR OTHER FORM OF
41 TRIBAL IDENTIFICATION ISSUED BY A FEDERALLY RECOGNIZED INDIAN TRIBE.

42 D. WITHIN TEN CALENDAR DAYS AFTER A GENERAL ELECTION THAT INCLUDES AN
43 ELECTION FOR FEDERAL OFFICE AND WITHIN FIVE BUSINESS DAYS AFTER ANY OTHER
44 ELECTION OR NOT LATER THAN THE TIME WHEN CHALLENGED EARLY VOTING BALLOTS ARE
45 RESOLVED, THE COUNTY RECORDER SHALL COMPARE THE VOTER'S SIGNATURE ON THE

1 PROVISIONAL BALLOT ENVELOPE WITH THE VOTER'S SIGNATURE ON FILE WITH THE
2 COUNTY RECORDER. IF THE VOTER'S SIGNATURE CAN BE VERIFIED, THE RECORDER
3 SHALL FORWARD THE BALLOT FOR COUNTING. IF THE SIGNATURE CANNOT BE VERIFIED,
4 THE PROVISIONAL BALLOT SHALL REMAIN UNOPENED AND SHALL NOT BE COUNTED.

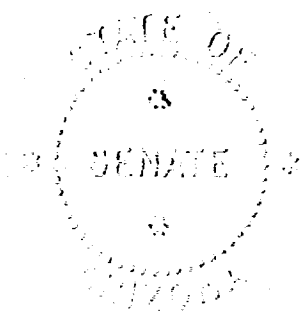
5 ~~E.~~ E. If a voter has moved to a new address within the county and has
6 not notified the county recorder of the change of address before the date of
7 an election, the voter shall be permitted to correct the voting records for
8 purposes of voting in future elections at the appropriate polling place for
9 the voter's new address. The voter shall be permitted to vote a provisional
10 ballot. The voter shall present a form of identification that includes the
11 voter's given name and surname and the voter's complete residence
12 address. The residence address must be within the precinct in which the
13 voter is attempting to vote, and the voter shall affirm in writing that the
14 voter is registered in that jurisdiction and is eligible to vote in that
15 jurisdiction.

16 ~~D.~~ F. On completion of the ballot, the election official shall remove
17 the ballot stub, shall place the ballot in a provisional ballot envelope and
18 shall deposit the envelope in the ballot box. Within ten calendar days after
19 a general election that includes an election for a federal office and within
20 five business days after any other election or no later than the time at
21 which challenged early voting ballots are resolved, the signature shall be
22 compared to the precinct signature roster of the former precinct where the
23 voter was registered. If the voter's name is not signed on the roster and if
24 there is no indication that the voter voted an early ballot, the provisional
25 ballot envelope shall be opened and the ballot shall be counted. If there is
26 information showing the person did vote, the provisional ballot shall remain
27 unopened and shall not be counted. When provisional ballots are confirmed
28 for counting, the county recorder shall use the information supplied on the
29 provisional ballot envelope to correct the address record of the voter.

30 ~~E.~~ G. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, when a
31 voter is allowed to vote a provisional ballot, the elector's name shall be
32 entered on a separate signature roster page at the end of the signature
33 roster. Voters' names shall be numbered consecutively beginning with the
34 number V-1. The elector shall sign in the space provided. The ballot stub
35 shall be removed and the ballot shall be placed in a separate envelope, the
36 outside of which shall contain the precinct name or number, a sworn or
37 attested statement of the elector that the elector resides in the precinct,
38 is eligible to vote in the election and has not previously voted in the
39 election, the signature of the elector and the voter registration number of
40 the elector, if available. The ballot shall be verified for proper
41 registration of the elector by the county recorder before being counted. The
42 verification shall be made by the county recorder within five business days
43 following the election, and the voter receipt card, notification or
44 identification card, if any, from the county recorder used therefor, if
45 valid, shall be returned to the elector within a reasonable time thereafter.

1 Verified ballots shall be counted by depositing the ballot in the ballot box
2 and showing on the records of the election that the elector has voted. If
3 registration is not verified the ballot shall remain unopened and shall be
4 retained in the same manner as voted ballots.

5 F. H. For any person who votes a provisional ballot, the county
6 recorder or other officer in charge of elections shall provide for a method
7 of notifying the provisional ballot voter at no cost to the voter whether the
8 voter's ballot was verified and counted and, if not counted, the reason for
9 not counting the ballot. The notification may be in the form of notice by
10 mail to the voter, establishment of a toll free telephone number, internet
11 access or other similar method to allow the voter to have access to this
12 information. The method of notification shall provide reasonable
13 restrictions that are designed to limit transmittal of the information only
14 to the voter.



HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 10, 2005,
by the following vote: 34 Ayes,

18 Nays, 8 Not Voting



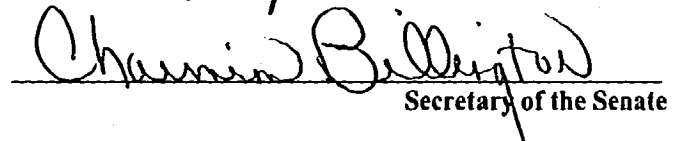
Speaker of the House
Pro Tempore


Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 4, 2005,
by the following vote: 17 Ayes,

12 Nays, 1 Not Voting


President of the Senate
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 11th day of May, 2005

at 11:30 o'clock a. M.


Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.
VETO

Governor of Arizona

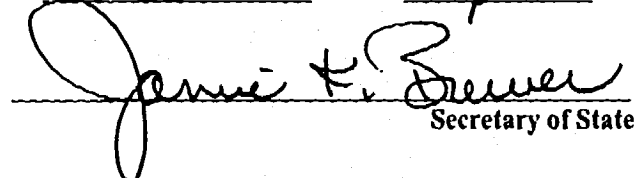
S.B. 1186

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20th day of May, 2005,

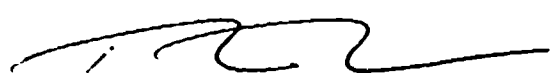
at 3:03 o'clock p. M.

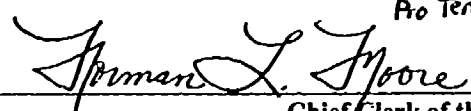

Secretary of State

Passed the House April 18, 20 05,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting



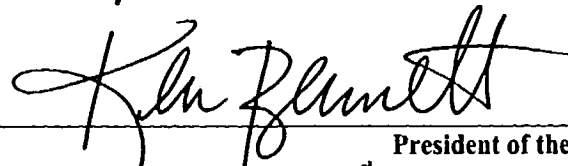
Speaker of the House
Pro Tempore


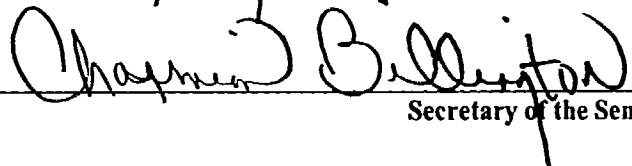
Chief Clerk of the House

Passed the Senate March 14, 20 05,

by the following vote: 21 Ayes,

7 Nays, 2 Not Voting



President of the Senate


Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1186

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State